

straight

LINES

Insurance News & Information

THE TENNESSEE DEPARTMENT OF COMMERCE & INSURANCE

Summer 2007

In This Issue

- Letter from Commissioner
- Consumer Corner
- Disciplinary Actions
- Status of Proposed Rules
- Legislative Summary
- Articles

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Greetings from the Commissioner

Session has ended and proudly several pieces of legislation that benefit the industry and consumer alike have been or will soon be signed into law by the Governor.

Notably, Tennessee has become the 30th state to join the Insurance Product Regulation Commission. Signed into law by the Governor on May 14th, joining the compact provides speed-to-market of insurance products on a uniform basis and furthers national efforts to keep regulatory authority of the insurance industry within the states.

A new civil penalty bill also signed into law authorizes the Commissioner to assess civil penalties against insurance companies that violate Tennessee insurance laws. Previously, violations could only result in suspension or revocation of a license along with other drastic actions. This is not always the appropriate remedy for the particular violations. Please join me in applauding the efforts of our legislative team.

Beyond our legislative accomplishments, this issue of Straight Lines provides several tips for seniors when considering the purchase of an annuity. Far too often the targets of fraud and deceptive sales practices, we must be vigilant in helping seniors to become savvy consumers through education and information.

I cannot encourage agents and consumers enough to **never** sell or purchase insurance products from unlicensed insurance companies.

We have a wonderful resource in our website, which provides an online searchable license database. Use this resource when considering selling or purchasing an insurance product.

We have insurance educators and consumer affairs professionals who are also available to assist agent and consumers. They are here to serve you.

As always, I welcome your input and suggestions.

Best Regards,

Leslie A. Newman
Commissioner of the Department of Commerce and Insurance



— Need Your Input —

Please let us know your thoughts about this newsletter and any input or thoughts you may have for future editions.

libby.davis@state.tn.us

VOLUNTEER STATE JOINS COMPACT RANKS

Tennessee
Becomes 30th Member of
Interstate Insurance Commission

Governor Phil Bredesen signed legislation making the Volunteer state the 30th member of the Interstate Insurance Product Regulation Commission (Commission). Now representing half of the nationwide premium

volume, the Commission continues to make rapid progress in adopting new Uniform Standards and setting up product filing operations.

cont. page 7

CONSUMER CORNER:

ANNUITIES AND SENIOR CITIZENS

Senior Citizens Should Be Aware of Deceptive Sales Practices When Purchasing Annuities

Annuity sales to senior citizens have significantly increased in recent years. However, as annuity sales have risen, so has a sense of confusion among consumers. This is due, in part, to questionable or deceptive sales practices employed by companies and agents looking to take advantage of uninformed consumers. It is extremely important, when considering whether or not to buy an annuity, to take the necessary precautions in order to make an informed decision that is best for you.

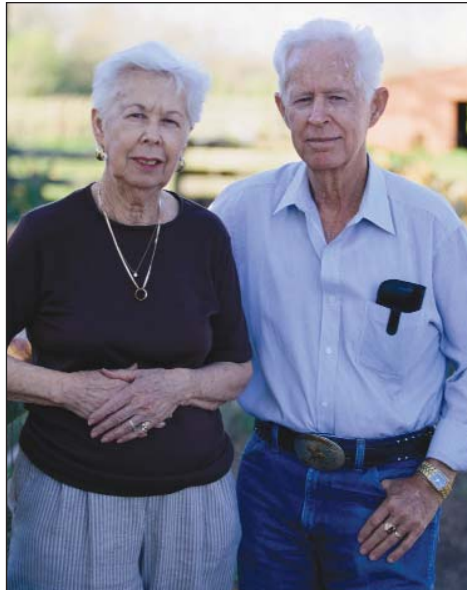
What is an Annuity?

An annuity is a contract in which an insurance company makes a series of income payments at regular intervals in return for a premium or premiums you have paid. Annuities are most often bought for future retirement income, and can pay an income that can be guaranteed to last as long as you live.

What are the Different Kinds of Annuities?

There are several types of annuities, all of which carry varying levels of risk and guarantees. To get the most out of an annuity, it is imperative that you know the different options available to you, as well as the benefits each type provides.

- **Single Premium Annuity:** An annuity in which you pay the insurance company only one premium payment.
- **Multiple Premium Annuity:** An annuity in which you pay the insurance company multiple premium payments.
- **Immediate Annuity:** An annuity in which you begin to receive income payments no later than one year after



you pay the premium.

- **Deferred Annuity:** An annuity in which you begin to receive income payments many years later.
- **Fixed Annuity:** An annuity in which your money, less any applicable charges, earns interest at rates set by the insurance company or in a way specified in the annuity contract.
- **Variable Annuity:** An annuity in which the insurance company invests your money, less any applicable charges, into a separate account based upon the risk you want to take. The money can be invested in stocks, bonds or other investments. If the fund does not do well, you may lose some or all of your investment.
- **Equity-Indexed Annuity:** A variation of a fixed annuity in which the interest rate is based on an outside index, such as a stock market index. The annuity pays a base return, but it may be higher if the index increases.

Is an Annuity Right for You?

To find out if an annuity is right for you,

think about what your financial goals are for the future. Analyze the amount of money you are willing to invest in an annuity, as well as how much of a monetary risk you are willing to take. You shouldn't buy an annuity to reach short-term financial goals. When determining whether an annuity would benefit you, ask yourself the following questions:

- How much retirement income will I need in addition to what I will get from Social Security and my pension plan?
- Will I need supplementary income for others in addition to myself?
- How long do I plan on leaving money in the annuity?
- When do I plan on needing income payments?

cont. page 5

**Consumer Corner
Contact Information:**

Director for Consumer Insurance
Services: Vickie Trice
To file a complaint, please call
1-800-342-4029 or email
cis.complaints@state.tn.us

The Consumer Insurance Services
Section exists to serve all consumers
protected by an insurance product in
Tennessee. We're here to help you
protect your rights and when
necessary, mediate complaints against
insurers. We can offer valuable
resources to help you: evaluate and
choose the right insurance product,
check on agents, companies and
products, and to troubleshoot
problems. ■

DISCIPLINARY ACTIONS

TDCI Disciplinary Actions Against Insurance Agents/Producers

Harry Burkhead (15560)

Henderson, Tennessee – Revocation on April 9, 2007, for selling unregistered securities and acting as an unregistered broker-dealer.

Gregory H. Brooks (689302)

Knoxville, Tennessee – Revocation on June 23, 2007 and ordered to pay a civil penalty of ten thousand dollars (\$10,000) for selling unregistered securities and acting as an unregistered broker dealer.

Paul Hickman (960919)

Chattanooga, Tennessee – Revocation on May 24, 2007, for being convicted of a felony.

Bobby Donald James (302270)

Smithville, Tennessee – License revoked on June 20, 2007, for using fraudulent, coercive or dishonest practices and for forging another's name to documents related to an insurance transaction.

Karen McCabe (964535)

Concord, North Carolina – Ordered to pay a civil penalty of four hundred dollars (\$400) for selling insurance products in Tennessee without obtaining a non-resident insurance producer license.

Lise Stanford (862714)

Eads, Tennessee – Revocation on March 29, 2007, for selling insurance without obtaining an insurance producer license.

Jeffrey Todd (893932)

Mooresville, North Carolina – Ordered to pay a civil penalty of two thousand dollars (\$2000) for demonstrating incompetence in the conduct of business.

TDCI Disciplinary Actions Against Insurance Companies

Selective Insurance Company of South

Carolina – Branchville, New Jersey – Selective Insurance Company of South Carolina was fined five hundred dollars (\$500) for failing to timely file its loss cost multiplier. Consent Order entered on June 7, 2007.

Selective Insurance Company of

Southeast – Branchville, New Jersey – Selective Insurance Company of Southeast was fined five hundred dollars (\$500) for failing to timely file its loss cost multiplier. Consent Order entered on June 7, 2007.

United General Title Insurance

Company – Baton Rouge, Louisiana – United General Title Insurance Company was ordered to pay a civil penalty of five hundred dollars (\$500) for failure to timely file with the Commissioner the company's financial, statistical and loss data.

Status of Proposed Rules

Life Insurance Advertising (0780-1-33)

– A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Life Insurance Illustrations (0780-1-15)

– A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Suitability in Annuity Transactions

(0780-1-86) – A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Sale, Issuance and Delivery of Both Individuals and Group Variable Annuity Contracts and Variable Life Contracts (0780-1-17) – A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Coordination of Benefits (0780-1-53) – A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Replacement of Life Insurance Policies (0780-1-24) – A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Variable Life Insurance (0780-1-16) – A hearing on the proposed rules was held on March 20, 2007. The Division is preparing responses to the comments.

Rules regarding Prevention of Illegal Multiple Employer Welfare Arrangements and Other Illegal Health Insurers (0780-1-92) – Rules were filed on June 29, 2007 and the rulemaking hearing is scheduled for August 15, 2007.

Rules regarding Military Sales Practices (0780-1-89) – Rules were filed on June 29, 2007 and the rulemaking hearing is scheduled for August 15, 2007.

Rules regarding Insurance Producer Licensing Requirements (0780-1-56) – A hearing on proposed rules will be held on August 15, 2007. ■

LEGISLATIVE SUMMARY

Public Chapter 148

Effective Date: May 14, 2007

Interstate Insurance Product Regulation Compact of 2007

(SB2263/HB2285*) – this Act authorizes the State to join the Interstate Insurance Product Regulation Compact. The Compact provides multi-state approval to life insurance, annuity, disability insurance and long term care insurance products that meet uniform standards promulgated by the Interstate Insurance Product Regulation Commission.

Public Chapter 338

Effective Date: June 4, 2007

Civil Penalties against insurance

companies (SB2169/HB2232*) – this Act gives the Commissioner the authority to assess civil penalties against insurance companies for violations of statute, regulations or orders of the Commissioner. Monetary limits are set for violations at \$1,000 per violation not to exceed \$100,000 and \$25,000 per knowing violation not to exceed \$250,000. The Act establishes criteria for determining knowing violations and establishes certain specific violations that are exempt from aggregate penalty limits. The penalties enumerated in the Act do not apply to insurance producers and the utilization of the penalties is at the discretion of the Commissioner.

Public Chapter 339

Effective Date: June 4, 2007

Mortality Tables/Military Sales

(SB2200/HB2255*) – this Act establishes a speed to market approach for the adoption of the National Association of Insurance Commissioner (NAIC) mortality tables unless the Commissioner rejects such tables by bulletin; deletes the statutory requirements on life insurance replacement transactions and provides the Commissioner with rulemaking authority for these transactions; and authorizes the Commissioner to adopt rules to protect service members of the Armed Services

from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

Public Chapter 359

Effective Date: June 5, 2007

Adoption of the Loss Cost Rate Filing system (SB2171/HB1813*)

– this Act makes permanent the current advisory prospective loss cost system for workers' compensation rate filings. This rate filing practice has been in effect since 1997 and was set to expire on July 1, 2007.

Public Chapter

Effective Date: January 1, 2008

Tennessee Prepaid Funeral Benefits Act

(SB2264/2286*) – this Act rewrites the regulatory scheme for the sale of preneed funeral benefits. Specifically, the Act prohibits individuals or funeral establishments from selling preneed funeral contracts without registering with the Department as preneed sellers or preneed sales agents. Thus, insurance producers that currently sell preneed insurance will need this additional registration for sales after January 1, 2008. The Act clarifies that all funds received for prepaid funeral contracts funded by prearrangement insurance policies must be applied by the preneed seller for this sole purpose. The Act also gives the Commissioner civil penalty authority and the ability to suspend or revoke a registrant's license for violations of the Act.

Public Chapter 228

Effective Date: May 24, 2007

Insurance Producer licensing

(SB1982/HB1680*) – this Act makes modifications to the prerequisites individuals must meet to take the state insurance examination to obtain an insurance producer license. This Act adds the requirement that an applicant must complete an on-site or on-line preparation program that has been approved by the

Commissioner and that applicants must be eighteen years or older. Rulemaking is required by the Department to develop other requirements for licensure.

Public Chapter 365

Effective Date: October 1, 2007

Credentialing for health care providers

(SB720/HB315*) – this Act establishes certain requirements that must be met regarding the results of credentialing between health insurance entities and health care providers. Under the provisions of this act, a health insurance company must notify a health care provider within 90 days after the receipt of a completed Council on Affordable Quality Healthcare (CAQH) credentialing application as to whether the entity is willing to contract with the provider. In deciding credentialing, the insurance entity cannot mandate the provider to have an active malpractice insurance policy and bear unnecessary cost of premium before the provider's employment start date. An insurance entity may not, in written material to members or on a website, state that a provider is an in-network provider or that the credentialing application is pending until the contract is signed by both provider and health insurance entity or that the provider is eligible for in-network reimbursement.

Public Chapter 406

Effective Dates: June 11, 2007

October 1, 2007 for insurance issuers with existing rating program

Physicians rating (SB732*/HB1452) –

Requires managed health insurance issuers to develop and implement procedures to insure that health care providers are informed of performance evaluations of the provider sixty days prior to publishing of these evaluations. The insurance issuer must make the provider aware of the methodologies of the evaluation, data collected and to what degree information is relied upon by the issuers. The issuers

cont. next page

LEGISLATIVE SUMMARY (continued)

are required to correct any discovered errors. In addition, the insurance issuer must have a prominent disclaimer that it relies on a rating system to determine costs with regard to the providers services.

Public Chapter 344

Effective Date: June 5, 2007

Tennessee County Mutual Insurance Company taxation (SB2082/HB1856*) – this Act makes all county mutual insurance companies subject to premium taxes imposed by Title 56, Chapter 4, Part 2. The provisions of this act are declared to be remedial in nature and shall be retroactive to January 1, 2007.

Public Chapter 159

Effective Date: May 15, 2007

Criteria for self-insured insurance pools (SB343*/HB2082) – the Act changes the requirements necessary for groups of employers to pool liabilities to become a self-insurer. Previously, a self-insured pool could be created by ten (10) employers of the same trade or professional association, if the trade or professional association has been in active existence in the state for five (5) years. The Act changes the requirements to be two (2) or more employers in the same trade or professional organization that

include at a minimum of five hundred (500) covered lives.

Public Chapter 496

Effective Date: July 1, 2008

Taxation of certain self-insurance pools (SB342/HB2081) – this Act exempts self insured pools, created by an association of private and not-for-profit educational institutions that has existed for at least twenty-five years, from paying gross premium taxation.

Public Chapter 299

Effective Date: July 1, 2007

Taxation of prepaid health services organizations (SB2239/HB2320*) – the Act explicitly prohibits the double taxation of prepaid health services organizations (PLHSO) by stating that premiums, contributions and assessments receive by PLHSO cannot be taxed twice.

Public Chapter 287

Effective Date: July 1, 2007

Additional visits for patients after utilization review (SB1305*/HB1605) – After a utilization review episode, this Act reduces the number of additional visits from at least fifteen to at least twelve that a chemically dependant or mental health

patient may receive. It also authorizes a chemically dependent or mental health patient to have at least twelve additional visits after the patient registers pursuant to the requirements of the policy or contract instead of at least seven visits.

Public Chapter 139

Effective Date: July 1, 2007

Accident reports to include insurance policy information (SB224*/HB851) –this Act requires that a written accident report must include the names of the insurance company, the names of the insurer, and the policy numbers of both parties involved. If the parties have a certificate of compliance in accordance with the Tennessee financial responsibility law of 1977 issued by the commissioner of safety then a copy of it shall be included in the report. This information was not previously required to be in written accident reports prepared by law enforcement.

Public Chapter 280

Effective Date: May 30, 2007

Deduction for gift annuities (SB483*/HB474) –this Act allows a charitable organization to be given a credit in meeting its capital requirements for any and all of its annuity risk which reflects reinsurance of the risk by an authorized insurance company. ■

Consumer Corner...cont.

- Will the annuity allow me to gain access to the money when I need it?
- Do I want a fixed annuity with a guaranteed interest rate and little or no risk of losing the principal?
- Do I want a variable annuity with the potential for higher earnings that aren't guaranteed and the possibility that I may risk losing principal?
- Or, am I somewhere in between and willing to take some risks with an equity-indexed annuity?

Avoid Being Fooled by Deceptive Sales Practices

Watch for the following red flags, which serve as warnings of possible deceptive sales practices:

- High-pressure sales pitch. If a particular group or agent has contacted you repeatedly, offering a "limited-time" deal that makes you uncomfortable or aggravated, trust your instincts and steer clear.
- Quick-change tactics. Skilled scam artists will try to prey on your "time fears." They may try to convince you to change coverage quickly without giving

you the opportunity to do adequate research.

- Unwilling or unable to prove credibility. A licensed agent will be more than willing to show adequate credentials.
- Remember, if it seems too good to be true, it probably is!

If you suspect you've been a victim of deceptive sales practices, or you have a specific question and can't get the answers you need from an agent or the insurance company, contact your state insurance department. ■

A • R • T • I • C • L • E • S

TDCI Obtains Control of National Foundation of America (NFOA)

Tennessee Department of Commerce and Insurance (TDCI) Commissioner Leslie Newman has been appointed by order issued by Chancellor Dinkins, Davidson County Chancery Court, as Rehabilitator for the National Foundation of America (NFOA), a company based in Franklin, Tennessee. Richard and Susan Olive, officers of NFOA, consented to entry of this Order.

The Order confirms that NFOA has been doing insurance business without a certificate of authority. NFOA marketed a term annuity product to Tennessee consumers as well as consumers across the country, convincing them to replace their existing annuities or cash value life insurance policies with promises that its annuity product would entitle them to significant tax benefits due to its alleged status as a charitable organization. While NFOA is a registered non-profit corporation in the State of Tennessee, TDCI confirmed with the IRS that NFOA has not received 501(c)(3) designation.

“The Court has agreed that a consent agreement that transitions NFOA into formal delinquency proceedings is beneficial to the successful run-off of the business. The Department, special deputy receiver, and special counsel will pursue all means necessary to ensure that those elderly persons who invested with NFOA will have the best chance of having their investments returned to them,” said TDCI

Commissioner Leslie Newman. “We are committed to protecting these victims of deceptive insurance practices.”

“We will be working closely with the department and will pursue all appropriate remedies vigorously,” said Attorney General Bob Cooper.

Tennesseans are strongly cautioned to never purchase insurance products, including annuities, from unlicensed insurance companies, nor should they deal with insurance agents or producers who are not licensed. To find out if a company or agent is licensed, or to view a copy of the consent order, please visit www.state.tn.us/commerce.

originally implemented in July 1, 2005. Emergency Amendments made effective on January 8, 2007 prompted the “Law Only” filing. This did not involve adjustments based on loss experience like we had in March.

Loss costs represent the loss and loss adjustment expense portion of what is charged by insurance companies for workers’ compensation coverage. Other expenses incurred by individual carriers to issue and service policies, as well as profit, contingencies, and loss cost modifications must be factored in as well in determining the final rate. ■

Workers’ Compensation Loss Cost Changes

Commissioner Newman approved a 2.4% overall increase in workers’ compensation loss costs effective 7/1/07, as filed by the National Council on Compensation Insurance.

Loss costs are a key factor in determining premium. The change applies to the new and renewal coverage. Among industry groups affected, manufacturing and contracting will receive an increase of 2.3%, office and clerical an increase of 2.8%, goods and services an increase of 2.5%, while the miscellaneous group increases 2.2%.

The increases were the result of changes to the Medical Fee Schedule which was

Volunteer State ...cont.

"Tennessee is very pleased to join the Compact," said Leslie Newman, Commissioner of the Tennessee Department of Commerce and Insurance. The legislation was signed on May 14. "Benefiting consumers and the industry, joining the compact provides speed-to-market of insurance products and standards of product regulation from state to state."

The Commission worked diligently to have its product filing operations set up this year in time for the Summer National Meeting of the National Association of Insurance Commissioners (NAIC) in San Francisco. It also will be encouraging companies to consider a Compact filing to gain the efficiencies of 30 Member State filings in one submission through the System for Electronic Rate and Form Filing (SERFF).

The Compact will create the Commission and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term insurance products. It will also develop uniform standards for these products and establish a central clearinghouse to receive and provide prompt review of each product. It will provide states with the ability to make regulatory decisions based on uniform national standards. The regulatory expertise of each state working together will be an asset for the Compact.

Uniform standards for several products have been adopted by the Commission and filings have already been received. Many more standards for additional insurance products remain to be drafted and adopted.

For more information about the Commission, visit www.insurancecompact.org. ■

FOR RECENT COMPANY RATE FILINGS INFORMATION
Go to:
www.state.tn.us/commerce/insurance/consumerRes.html

For recent bulletins released by the Insurance Division please visit:
<http://state.tn.us/commerce/insurance/bulletins.html>

We are updating our website!
The Department of Commerce and Insurance is overhauling their website.
Stay tuned for a more streamlined, user-friendly version.

T D C I

Announces New Director

We are pleased to announce that **Phil Blustein** has been selected as the new Insurance Examination Director. He is a Certified Financial Examiner and has served for the past three and a half years as a Life Analyst for the Insurance Division. He was a Supervising Examiner-in-Charge for the Connecticut Insurance Department and came to the State of Tennessee with thirty five years of field examiner and examiner-in-charge experience for various Insurance Departments.

YOU CAN NOW RENEW YOUR LICENSE ONLINE

If you have questions/changes concerning your agent license, please visit www.state.tn.us/commerce and check out our Agent Licensing Resource page. This office is responsible for the licensing and regulation of insurance agents. Approximately 106,000 agents are licensed to do business in Tennessee.